

1 WITNESS: Yes, I have.

2 BY MR. ZAUNER:

3 Q Were you involved in providing information for  
4 the preparation of this document?

5 A Yes, I was.

6 Q And what information did you give to help  
7 provide the, the, for the completion of this document?

8 A I gave the information as to the job hires and  
9 had given some of the other information using the previous  
10 license renewal as a form.

11 Q Did you type, looking at page six and seven,  
12 did you type the information that appears on page six and  
13 seven?

14 A I do not know if I typed this particular one.  
15 I had done a copy of something similar to that when I first  
16 was asked to fill out the form and get the information.

17 Q Then you typed, you may have typed this  
18 particular one but you're not sure, but in any case you typed  
19 something very similar to it?

20 A Very similar to that.

21 Q When you typed this information, did you have  
22 something that you typed from?

23 A Yes. I used the, the previous license renewal  
24 as a basis to go by.

25 Q I'm going to show you a copy of Mass Media

1 Bureau Exhibit Number 1, and I'm going to ask you to take a  
2 look at this document and tell us if this is the document that  
3 you used when you --

4 MS. SCHMELTZER: Want me to show her the document --

5 MR. ZAUNER: Oh, okay. We have a set for the  
6 witness, yes. And let me point your attention to page five  
7 and six of Exhibit 1, and the numbers are on the bottom right  
8 hand corner.

9 WITNESS: Is this the, the right --

10 JUDGE STEINBERG: Yes, that's, that's the right  
11 exhibit. And just look for pages five and six, and just  
12 review those to yourself.

13 WITNESS: Yes.

14 BY MR. ZAUNER:

15 Q This is the document that you used --

16 A Yes, correct.

17 Q -- to assist you in preparing the 1989 renewal  
18 application.

19 A (INAUDIBLE).

20 Q And your answer to that is yes.

21 MS. SCHMELTZER: You'll have to speak up.

22 WITNESS: Oh, I'm sorry. Yes.

23 BY MR. ZAUNER:

24 Q Now I notice when I compare the 1989 renewal  
25 application that you typed and the 1982 document that you used

1 to prepare the 1989 renewal, that there are some differences  
2 in language. For example, I would call your attention to the  
3 section on recruitment. The 1989 section on recruitment  
4 begins with the words: when vacancies occur; while the  
5 recruitment section of the 1982 application begins with the  
6 term or the words: with a small staff of employees. Can you  
7 tell us how the differences, those differences in languages  
8 came to be?

9 A Well, yes. After I had just typed a rough  
10 form, it was gone over by the general manager and any changes  
11 made by, by him.

12 Q And who was the general manager at that time?

13 A Now are we talking in, in --

14 Q 1989.

15 A -- 1989, it would have been Dennis Stortz, he  
16 would be acting general manager.

17 Q And did he write in on the 1982 form what  
18 changes he --

19 A Yes, whatever changes was to be made, yes, was  
20 penciled in, and then I just retyped it.

21 JUDGE STEINBERG: Do you use a word processor or do  
22 you type from --

23 WITNESS: No, at that time we had nothing on --

24 JUDGE STEINBERG: So you had to retype the whole --

25 WITNESS: Type it, yes.

1 BY MR. ZAUNER:

2 Q Let me call your attention to the 1989 form, to  
3 the section relating to job hires, and that's section seven.  
4 And there it says that during the 12-month period beginning  
5 October 1st, 1988, and ending September 30th, 1989, we hired a  
6 total of six persons, two white males and four white females.  
7 Did you provide information on the hires that went into that  
8 statement?

9 A Yes, I did.

10 Q And you made the calculation of the number of  
11 hires and the number of males and females --

12 A Yes.

13 Q -- and their race. And when you, after you  
14 made the calculation, what did you do with that information?

15 A Well, I just --

16 Q Did you --

17 A -- typed it into the file and put it in the  
18 file.

19 Q Did you give the information to Mr. Stortz?

20 A Yes.

21 Q And, and you also typed the information onto  
22 the form?

23 A Onto the form and, and --

24 Q And, and when we say form, we're referring to  
25 this, this section --

1 A Well, referring to this --  
2 MS. LADEN: (INAUDIBLE).  
3 JUDGE STEINBERG: Ms. Zika, wait.  
4 MS. LADEN: I just wanted to ask you would you let  
5 him finish with --  
6 WITNESS: Oh, I'm sorry.  
7 MS. LADEN: -- question --  
8 BY MR. ZAUNER:  
9 Q And, and when you say form, you're referring to  
10 the equal employment opportunity program, which is pages six  
11 and seven, when you say you typed this information onto the  
12 form?  
13 A Yes, that's what I am referring to, um-hum.  
14 Q I'm going to ask you to take a look at  
15 Exhibit 4, Attachment 16.  
16 JUDGE STEINBERG: That's what we have.  
17 MR. ZAUNER: I think that's the one that's already  
18 in front of you.  
19 MS. SCHMELTZER: Yes, right.  
20 MR. ZAUNER: I'm sorry, could we make that  
21 Exhibit 7.  
22 MS. SCHMELTZER: Exhibit 7?  
23 MR. GOTTFRIED: Attachment 7?  
24 MS. SCHMELTZER: Attachment 7?  
25 MR. ZAUNER: Attachment 7, yes, you're correct.

1 JUDGE STEINBERG: Okay, let's take the whole --  
2 MR. ZAUNER: I'm sorry.  
3 JUDGE STEINBERG: -- state the whole thing again.  
4 Okay, now Exhibit 4, Church Exhibit 4, Attachment 7.  
5 MR. ZAUNER: Church Exhibit 4, Attachment 7.  
6 JUDGE STEINBERG: Okay.  
7 MS. SCHMELTZER: Do you want her to refer to a  
8 specific page or anything?  
9 MR. ZAUNER: Oh, I --  
10 MS. SCHMELTZER: Or just the beginning of it.  
11 MR. ZAUNER: Let's go to, to page 24. That'll be  
12 what I'll be asking about.  
13 MS. SCHMELTZER: And, wait --  
14 JUDGE STEINBERG: Table two?  
15 MS. SCHMELTZER: Table two or do you want table  
16 three?  
17 MR. ZAUNER: Table three.  
18 MS. SCHMELTZER: Page 26?  
19 MR. ZAUNER: Page 26, right.  
20 BY MR. ZAUNER:  
21 Q Did there come a time when you were asked to  
22 prepare additional information concerning the number of  
23 full-time hires during the period of October 1st, 1986, to  
24 October 1st, 1989?  
25 A Yes.

1 Q And who asked you to prepare that information?  
2 A Dennis Stortz and --  
3 Q Did he tell you why you were being asked to  
4 prepare that information?  
5 A No, no.  
6 Q He just came to you and asked --  
7 A Came and said we needed additional information.  
8 Q And, and what did, what additional information  
9 did he tell you he needed specifically?  
10 A The hires during the periods from 1986 to 1989.  
11 Q And the, the information that is on page 26,  
12 which is before you now, was this information that you  
13 provided to Mr. Stortz as a result of his request?  
14 A Yes. I did not do this final form, but that is  
15 the information that we worked on together.  
16 Q After you provided this information to Mr.  
17 Stortz, did you subsequently learn that the Commission had a  
18 problem with information that had been provided by the station  
19 concerning its hires? The number of hires --  
20 A Yes.  
21 Q -- reported in its renewal application?  
22 A Yes.  
23 Q Were you asked to do anything with regard to  
24 the Commission's concern?  
25 A Well, I was asked why I thought of the

1 | discrepancy, there was a discrepancy.

2 |           Q     But were you asked to go back and calculate how  
3 | you had calculated the number of employees reported in the  
4 | renewal application?

5 |           A     No, not at that time.

6 |           Q     This is subsequent to having provided this  
7 | information. You learned that there was a problem with the  
8 | information that had been provided in the renewal application.

9 |           A     Yes.

10 |          Q     Is that correct?

11 |          A     That's correct.

12 |          Q     And were you then asked to recalculate the  
13 | number of hires made during the renewal, during the, the new  
14 | year, let me get, let me get the facts here, from October 1st,  
15 | 1988, to September 30th, 1989?

16 |          A     Yes. I was asked why I thought there was a  
17 | discrepancy of some sort.

18 |          Q     And, and what did you do to, to find out why  
19 | there was a discrepancy?

20 |          A     Well, I went through, through the records  
21 | again, and I determined that it was probably due to the fact  
22 | that, of the hires that I had interpreted as being the hires  
23 | for that period that were still working at the station, and,  
24 | and used the full-time people.

25 |          Q     In the 1989 renewal application, it is stated

1 that during the 12-month period beginning October 1st, 1988,  
2 and ending September 30th, 1989, that the station had hired a  
3 total of six persons, two white males and four white males.

4 MS. SCHMELTZER: Four white females.

5 JUDGE STEINBERG: Females.

6 MS. SCHMELTZER: Four white females.

7 MR. ZAUNER: And four white females. When you  
8 rechecked, what that, was that statement correct?

9 WITNESS: Well, there was, the statement was correct  
10 insofar as I, I had understood the question. In, in checking,  
11 I realized that I had used only full-time hires and people  
12 that were still working at the station. I did not count part-  
13 time, and I did not count the hires that had come and gone in  
14 that particular period.

15 MR. ZAUNER: Let me call your attention now to  
16 Church Exhibit 4, Attachment 17.

17 WITNESS: Now where will I find that.

18 JUDGE STEINBERG: Ms. Schmeltzer, could you help?

19 MS. SCHMELTZER: Church Exhibit 4, Attachment --

20 JUDGE STEINBERG: Number 17. Thank you.

21 BY MR. ZAUNER:

22 Q This memo which is on the letterhead of Classic  
23 99 indicates that 14 persons were hired over the period of  
24 October 1st, 1988, to September 30th, 1989. Now you, you had  
25 indicated in the renewal form that there were six persons

1 | hired over that period of time. Could you tell us name by  
2 | name, year, well, first of all, is, is the statement here on,  
3 | in Attachment 17 correct? Was there, in fact, these 14  
4 | persons hired over the period of October 1st, 1988, to  
5 | September 30th, 1989?

6 |           A     Yes, that's correct.

7 |           Q     Okay. Now when you calculated there were six  
8 | people hired and you provided that information for inclusion  
9 | in the renewal application, can you tell me did you include  
10 | the part-time individuals in that calculation?

11 |           A     No, I did not use the part-time individuals. I  
12 | understood the question differently than actually that it was.

13 |           JUDGE STEINBERG: Can I interrupt here and what  
14 | question --

15 |           MS. SCHMELTZER: I have the forms from 1988 and I  
16 | think it might be useful to make it an exhibit.

17 |           JUDGE STEINBERG: Yes.

18 |           MR. ZAUNER: I think so, too.

19 |           JUDGE STEINBERG: Yes, because that's, when I read  
20 | through this, I didn't know what question was being asked and  
21 | answered, so I think, will you, do you mind if Ms. Schmeltzer  
22 | does that now?

23 |           MR. ZAUNER: No, I have no problem at all.

24 |           JUDGE STEINBERG: And then we can --

25 |           MR. ZAUNER: I think it's a good idea.

1 JUDGE STEINBERG: Yes, okay.  
2 MS. SCHMELTZER: -- do you want me to do it right  
3 now or --  
4 JUDGE STEINBERG: Yes, why don't we --  
5 MR. ZAUNER: Yes, why don't we do it now.  
6 JUDGE STEINBERG: Yes.  
7 MS. SCHMELTZER: (INAUDIBLE).  
8 JUDGE STEINBERG: I think that would be good.  
9 MS. SCHMELTZER: This is the, this is, I would like  
10 to have marked for identification as Church Exhibit 9, a  
11 five-page document that's entitled Broadcast Equal Employment  
12 Opportunity Program. If you look at, it says that's -- Form  
13 396 down at the bottom, but it did not Xerox well, but if you,  
14 it does show on page two --  
15 JUDGE STEINBERG: What --  
16 MS. SCHMELTZER: -- page one did not Xerox.  
17 JUDGE STEINBERG: -- what's the admission, the date?  
18 MS. SCHMELTZER: Well, I'm going --  
19 JUDGE STEINBERG: Okay.  
20 MS. SCHMELTZER: -- to say that.  
21 JUDGE STEINBERG: Thank you.  
22 MS. SCHMELTZER: The date, if you look on page  
23 three, that shows up clearly as January, 1988, and this was  
24 the form that was in use in 1990 because the way I got this  
25 was to take it from another licensee that filed in 1990.

1 JUDGE STEINBERG: Okay, the document described will  
2 be marked for identification as Church Exhibit 9.

3 (Whereupon, the document referred to  
4 as Church Exhibit No. 9 was marked  
5 for identification.)

6 JUDGE STEINBERG: Why don't you label it and leave  
7 one on Mr. Honig's table, please.

8 MS. SCHMELTZER: Okay. And I would move Church  
9 Exhibit 9 into evidence.

10 JUDGE STEINBERG: Mr. Zauner?

11 MR. ZAUNER: No objection.

12 JUDGE STEINBERG: Church Exhibit 9 then received.  
13 (Whereupon, the document marked as  
14 Church Exhibit No. 9 was received  
15 into evidence.)

16 JUDGE STEINBERG: Okay. Thank you, Mrs. Schmeltzer.

17 BY MR. ZAUNER:

18 Q Mrs. Zika, can you tell us which of the full-  
19 time employees listed on, in Attachment 17 were among the six  
20 that you counted originally as being hired at the station?

21 A All right. Wynn Bressler, and Frank Wood, and  
22 Lucy Walker, Glynelle Wells, Angela Burger, and Christine  
23 Keseman.

24 Q Now can you tell us why you didn't count  
25 David Schultz?

1           A     Pastor Schultz did not come into the office  
2 until after October, so I did not have him in my records as  
3 being hired in September. My records indicated that he was  
4 October, so I did not count Pastor Schultz.

5           Q     Can you tell us why you didn't count  
6 Bob Thomson?

7           A     Now Mr. Thomson, I did not realize that he had  
8 been hired during the last quarter of '88, and I did miss  
9 Mr. Thomson and that was an error on my part.

10          Q     Can you tell us why you didn't count  
11 James Bebo?

12          A     He came and was gone in a very short time, so I  
13 only counted those people that were still working and  
14 employed, and the same is with Carolyn Miller. She was hired  
15 and had left by that time.

16          Q     Could you identify for the record the sex of  
17 each of the full-time hires that are listed in Attachment 17?

18          A     Each one?

19          Q     Yes, one by one.

20          A     All right. Bob Thomson, male; James Bebo,  
21 male; Carolyn Miller, female; Wynn Bressler, male; Lucy  
22 Walker, female; Glynelle Wells, female; Frank Wood, male;  
23 Angela Burger, female; and Christine Keseman, female. And, of  
24 course, Pastor David Schultz is male.

25          Q     Were each of these full-time hires white?

1 A Yes, they were all white.

2 Q Let me draw your attention to Attachment 1 to  
3 your testimony, it's Church Exhibit 3. Do you have that in  
4 front of you?

5 A Yes, I do.

6 Q Is this your handwriting?

7 A Yes, it is.

8 Q Do you recall around when you may have written  
9 it?

10 A No, I don't really remember what date. It was  
11 after the discrepancy had been discussed and I was asked how  
12 come.

13 Q Who asked you?

14 A Dennis Stortz.

15 Q And did you give this to Dennis Stortz after  
16 you had written it?

17 A Yes, I gave this to him.

18 MR. ZAUNER: Your Honor, I have no further  
19 questions.

20 JUDGE STEINBERG: I have a couple. Okay. If you  
21 look at your statement, paragraph seven, page three, actually  
22 go back to page two, please. The first sentence of paragraph  
23 four, could you just read that to yourself.

24 WITNESS: First?

25 JUDGE STEINBERG: Yes.

1 MR. ZAUNER: Just the first?

2 JUDGE STEINBERG: The first, yes, that was the, the  
3 terms about, the first --

4 MR. ZAUNER: Your Honor, I'm having trouble hearing  
5 you.

6 JUDGE STEINBERG: Okay. The first, paragraph four  
7 of her statement, the first couple of sentences. Just read, I  
8 asked Ms. Zika to read those to herself.

9 BY JUDGE STEINBERG:

10 Q And now if you'd pick up Church Exhibit 9,  
11 which is --

12 A This?

13 Q -- right, yes. What question, you, you  
14 referred to the question in the Form 396. Which question  
15 specifically are you referring to?

16 A As to job hires.

17 Q So it's --

18 A It would be four.

19 Q Page four?

20 A Um-hum.

21 Q Roman numeral IV?

22 A IV.

23 Q Okay. Could you explain to me how you read  
24 that? In your own mind, how did you read that?

25 A I interpreted this to mean the number of people

1 that were hired during that 12-month period and were still  
2 employed, in other words, hires that we had still employed at  
3 the station. I did not interpret it meaning the total number  
4 of those that were hired and were no longer there.

5 Q Okay. Now --

6 A And I also only considered the full-time  
7 people.

8 Q Okay. I want you to, if you can, tell me where  
9 in this question it says people hired and still there.

10 A Well, it, it, not. In other words, I did not  
11 follow this exactly. I was just asked to supply this  
12 information by Mr. Stortz.

13 Q Okay. Did Mr. Stortz ask you to provide the  
14 number of people hired during the year but still there?

15 A No. That was, that's my misinterpretation or I  
16 mean that is what I thought he was asking me for, the number  
17 of hires that we had.

18 Q Okay. But you'll, you'll admit that the form  
19 doesn't say anything about --

20 A No, I did not, yes, this was in response to  
21 what I was asked to provide.

22 Q Okay.

23 A I did not dwell on this question here.

24 Q Okay. And you will also agree that there is  
25 nothing in that paragraph that refers to full-time versus

1 part-time?

2 A No.

3 JUDGE STEINBERG: I have no, nothing else.

4 Re-direct?

5 MS. SCHMELTZER: I just have one brief question.

6 JUDGE STEINBERG: Sure.

7 REDIRECT EXAMINATION

8 BY MS. SCHMELTZER:

9 Q Ms. Zika, His Honor asked you about  
10 Attachment 1 to your testimony, the -- and that's the  
11 Attachment 1, entitled EEO Program report.

12 A Um-hum.

13 Q And you stated that you provided that to  
14 Mr. Dennis Stortz at, at some point in time and you weren't  
15 certain about the point in time.

16 A No.

17 Q I'd like to show you a letter dated June 26th,  
18 1992, from the Commission to Mr. Bohlmann, which asks about  
19 the phrase: we hired a total of six persons, two white males  
20 and four white females. And I'd just like to ask you if that  
21 refreshes your recollection at all as to the approximate time  
22 when you might have written the Attachment 1?

23 A Well, yes. I would assume that it was around  
24 that time in, in '92.

25 Q In response to the Commission's inquiry.

1                   A     Surely.

2                   JUDGE STEINBERG:  What, which, which --

3                   MS. SCHMELTZER:  I'm sorry, this is --

4                   JUDGE STEINBERG:  -- Mass Media Bureau exhibit is

5 it?

6                   MS. SCHMELTZER:  -- this is, I'm sorry, it's Mass

7 Media Bureau Exhibit 8.

8                   JUDGE STEINBERG:  And what's the date of that?

9                   MS. SCHMELTZER:  And that is dated June 26, 1992.

10                  JUDGE STEINBERG:  Okay.  So to the best of your

11 recollection, Ms. Zika, that --

12                  WITNESS:  I think, yes, it was in answer to an

13 inquiry.

14                  MS. SCHMELTZER:  That's all I have, Your Honor.

15 Thank you.

16                  MR. ZAUNER:  Nothing further, Your Honor.

17                  JUDGE STEINBERG:  Okay.  I've got nothing further.

18 Ms. Zika, thank you very much for testifying.  I appreciate it

19 and I appreciate that you came here not feeling 100%.

20                  WITNESS:  Thank you.

21                  JUDGE STEINBERG:  And I'm sure that everyone joins

22 me in, in wishing that you get better quickly and that you

23 have a nice trip back to St. Louis.

24                  WITNESS:  Thank you very much.

25                  JUDGE STEINBERG:  And thank you.

1 WITNESS: Yes, I'll --

2 JUDGE STEINBERG: Yes. Yes, you're excused.

3 MS. SCHMELTZER: Let me give you your pills back to  
4 you.

5 WITNESS: Oh, my pills.

6 JUDGE STEINBERG: Why don't we go off the record.

7 (Whereupon at 12:00 noon, on Tuesday, June 21, 1994,  
8 the hearing recessed, to reconvene at 1:30 p.m. on Tuesday,  
9 June 21, 1994.)

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## A F T E R N O O N   S E S S I O N

JUDGE STEINBERG: Okay. We're on the, we're on the record now. This is the time that I set aside to consider some of the NAACP's rebuttal case exhibits. Specifically, what I want to consider at this time are NAACP Exhibits 1 through 11, and when we finish that, we'll talk about Richard Miller, the testimony of Richard Miller. I'm not prepared to go beyond Exhibit 11 at this juncture, but I think it would be, be more, more convenient and easy to identify all your exhibits and, and the way I've decided to do that, there are 62 exhibits, although there are no exhibits, I should make this clear for the record, there is, there are Exhibits 1 through 11; there are no exhibits 12 through 20, those were reserved; and then there are Exhibits 21 through 62 that were exchanged.

(Whereupon, the documents referred to as NAACP Exhibits 1 through 11, and 21 through 62, were marked for identification.)

JUDGE STEINBERG: Mr. Honig, why don't you give the original and a copy of your exhibits to the reporter and just make sure that the, you give the reporter two copies of what is called, quote, Index to NAACP Rebuttal Case Exhibits.

MR. HONIG: We've got one complete tabbed set, which is the copy, and, and instead of originals that has not yet

1 | been tabbed, we'll be, as soon as --

2 |           JUDGE STEINBERG: Okay. I don't think we need, we  
3 | don't need tabs for the reporter because they, they, they  
4 | break them up and each of them is marked, stamped and marked,  
5 | so we don't need tabs for the reporter's copies. Is that  
6 | right?

7 |           REPORTER: That's right.

8 |           MR. HONIG: Oh, okay.

9 |           JUDGE STEINBERG: Just as long as they are stapled  
10 | and put together.

11 |           MR. HONIG: Okay. Yes.

12 |           JUDGE STEINBERG: Why don't you, that's Exhibit 4.

13 |           MR. HONIG: That's Exhibit 4.

14 |           JUDGE STEINBERG: Why don't you physically make the  
15 | substitutions.

16 |           MR. HONIG: Okay.

17 |           JUDGE STEINBERG: You can do it now or later, I  
18 | don't care.

19 |           MR. HONIG: -- while we go on the break.

20 |           JUDGE STEINBERG: You're going to do it, okay, we'll  
21 | do it later. That's Exhibit 4, the, the copy that was  
22 | exchanged that's not legible. Now, okay. Included in that  
23 | package is Index to NAACP Rebuttal Case Exhibits. The type,  
24 | it's typed Direct Case Exhibits, but we agreed to change that  
25 | to Rebuttal Case Exhibits. That is a one, two, three, that's

1 a four-page document, and for ease of, well, actually it's, to  
2 save Mr. Honig from doing, actually from talking from now  
3 until 4:30, what I'm going to do is I'm going to mark the  
4 index as Judge's Exhibit 2.

5 (Whereupon, the document referred to  
6 as Judge's Exhibit No. 2 was marked  
7 for identification.)

8 JUDGE STEINBERG: The index contains the  
9 Exhibit Number, the title of the exhibit, and the number of  
10 pages, and we will use that index as the identification of  
11 each of the exhibits, so, just hold on a second while I do  
12 some bookkeeping, so I'll identify that index as Judge's  
13 Exhibit 2 and I'll receive it, hearing no objection. I  
14 suppose there aren't any objections.

15 (Whereupon, the document marked as  
16 Judge's Exhibit No. 2 was received  
17 into evidence.)

18 JUDGE STEINBERG: And that action being taken, NAACP  
19 Exhibit Numbers 1 through 11 are identified as described in  
20 Judge's Exhibit 2, and as I noted, 12 through 20 there are no  
21 exhibits, and 20, NAACP Exhibits 21 through 62 are identified  
22 as described in Judge's Exhibit Number 2. Okay. Now what I  
23 suggest is we'll take, take 1 through 11, one by one, and you  
24 can offer them and if there are any objections, I can hear  
25 them and rule.

1 MR. HONIG: Your Honor, may I, do you want these  
2 individually identified to be marked for identification or do  
3 you want --

4 JUDGE STEINBERG: No, that's already been done.

5 MR. HONIG: Okay, so it's they're all --

6 JUDGE STEINBERG: Yes, that's been done, yes.

7 MR. HONIG: -- they're all marked for  
8 identification?

9 JUDGE STEINBERG: They're all marked for  
10 identification.

11 MR. HONIG: Okay.

12 JUDGE STEINBERG: And we all know what they are  
13 because everybody's got Judge's Exhibit 2.

14 MR. HONIG: Okay. Would it save time for me just,  
15 would it not to, to describe each one, but just to, to say for  
16 each one I offer Exhibit so-and-so in evidence?

17 JUDGE STEINBERG: Yes. You don't have to describe  
18 it.

19 MR. HONIG: Great. Okay. Well --

20 JUDGE STEINBERG: Everyone knows what they are, I  
21 think.

22 MR. HONIG: Okay. Then I offer Exhibit Number 1,  
23 the declaration of Darwyn R. Apple and attachments in  
24 evidence.

25 JUDGE STEINBERG: Ms. Schmeltzer?

1 MS. SCHMELTZER: Yes, we object to this exhibit in  
2 its entirety. It's irrelevant. There's no reference to KFUD  
3 in here. It talks about disc jockeys and announcers. It's  
4 just, there's no basis for having this in the case.

5 MR. ZAUNER: We, the Bureau would join in that  
6 objection and also point out that it doesn't appear to rebut  
7 anything that's in any of the direct case exhibits or in the  
8 testimony we heard.

9 MR. HONIG: Your Honor, this case is about and was  
10 designated for a hearing on the question of whether it was  
11 reasonable for the licensee to take the position which it  
12 appeared to be taking in various pleadings which are now being  
13 admitted into evidence, that African-Americans classical music  
14 background were hard to find, and that, furthermore, certain  
15 positions of the station required that background. And as,  
16 and Mr. Apple, as the file will show, has a lengthy career and  
17 great expertise and familiarity with the subject matter of  
18 African-Americans and classical music and particularly in  
19 St. Louis. He is a violinist with the St. Louis symphony,  
20 having had a very long career. And he is prepared to testify  
21 on the question of why any radio station, and I don't think it  
22 was necessary that he specifically mention which one, should  
23 not be able to assert that it's hard to find blacks for  
24 positions as announcers. That is the area in which he has  
25 expertise. His declaration is very specific. It's germane to

1 the issues in this case and it's germane to the defense that  
2 has been asserted, as well as the pleadings that have been on  
3 file. And it is offered for that purpose.

4 JUDGE STEINBERG: I'm, I'm going to reject NAACP  
5 Exhibit Number 1 for the reasons stated by counsel for, well,  
6 for the Church and counsel for the Bureau. In addition, I  
7 don't see that this exhibit has established that this  
8 individual is qualified to state his opinion with respect to  
9 these matters. Well, that, you've got my ruling and the basis  
10 therefore.

11 (Whereupon, the document referred to  
12 as NAACP Exhibit No. 1 was hereby  
13 rejected.)

14 MR. HONIG: I offer Exhibit Number 2 in evidence.

15 MS. SCHMELTZER: Your Honor, I have the same  
16 objection to Exhibit Number 2 and, in addition, I note that in  
17 paragraph four, this person names six individuals that they  
18 think would allow them to serve in upper level management  
19 positions at KFUD. There's no evidence that any of these  
20 people ever applied for a job at KFUD. The appellant also  
21 goes on to allege that KFUD ignored the minority community in  
22 its programming and hiring policies. With respect to hiring  
23 policies, there's no basis for this individual to say that he  
24 has any knowledge of our hiring policies and there's no  
25 programming issue in this case. This, this individual